

## Internal Revenue Service

Department of the Treasury  
Washington, DC 20224

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Date:  
September 8, 2015

### Legend

Trust =  
Association =  
State =  
Year 1 =  
Year 2 =  
Year 3 =  
Year 4 =  
Effective Date =

Dear :

This letter responds to a letter from your authorized representative dated February 18, 2015, and subsequent correspondence submitted on behalf of Trust, requesting a ruling that the Trust's income is excludable from gross income under Internal Revenue Code (IRC) § 115.

Association is a State nonprofit corporation. In Year 2, Association received a determination from the Internal Revenue Service (IRS) that it was described in IRC § 501(c)(6) and was exempt from tax under IRC § 501(a). In Year 3, the Internal Revenue Service issued Association a letter ruling concluding that its income was excludable from gross income under § 115 and was not required to file Form 990.

Association's bylaws provide that regular membership in the Association is limited to Special Districts. Special Districts are political subdivisions of the State devoted to providing specific services to the citizens of State, such as irrigation, port, fire, and sanitary services. The bylaws further provide that associate membership is open to any (1) intergovernmental agency, department, council, or like entity created under State statute or (2) statewide or regional associations of local government or any other public

entities which qualify as political subdivisions or municipal, quasi-municipal or public corporations under State statute.

Since Year 1, one of the activities of the Association has been the provision of self-insured insurance pools and group purchase of medical and disability insurance for member governments through Trust. The self-insured insurance pools provide property, tort, and workers compensation insurance for governmental entities that are members of Association. The group purchase program allows members of Association to obtain medical, dental and disability insurance through a group association plan. These programs allow local governments who participate to obtain insurance and insurance management and administrative services at a lower cost.

In Year 4, Association's Board of Directors and the Trustees of the Trust amended the trust agreement to be more congruent with the requirements for self-insured pools under State law.

Association members that were participating in the Trust as of Effective Date were automatically eligible to become a member of the Trust. The members of the Trust are Special Districts and Public Bodies as described in State law. The Special Districts and Public Bodies are State Special Districts, a political subdivision of State, an integral part of the State, or an entity the income of which is excluded from its gross income by application of IRC § 115.

Trust represents that the income it receives is from political subdivisions of State, organizations that are integral parts of political subdivisions of State, or from entities whose entire income is excludable from gross income under IRC § 115.

The Trust may be terminated upon a vote by the Board of Directors and Trustees or Members. Upon termination, any remaining assets will be distributed among the Special Districts and Public Bodies who are members at the date of termination.

## **Law and Analysis**

IRC §115(1) provides that gross income does not include income derived from any public utility or the exercise of any essential governmental function and accruing to a state or any political subdivision thereof.

Rev. Rul. 77-261, 1977-2 C.B. 45, holds that income generated by an investment fund that is established by a state to hold revenues in excess of the amounts needed to meet current expenses is excludable from gross income under IRC § 115(1), because such investment constitutes an essential governmental function. The ruling explains that the statutory exclusion is intended to extend not to the income of a state or municipality resulting from its own participation in activities, but rather to the income of an entity engaged in the operation of a public utility or the performance of some governmental

function that accrues to either a state or political subdivision of a state. The ruling points out that it may be assumed that Congress did not desire in any way to restrict a state's participation in enterprises that might be useful in carrying out projects that are desirable from the standpoint of a state government and that are within the ambit of a sovereign to conduct.

Rev. Rul. 90-74, 1990-2 C.B. 34, holds that the income of an organization formed, funded, and operated by political subdivisions to pool various risks (e.g., casualty, public liability, workers' compensation, and employees' health) is excludable from gross income under IRC § 115(1) because the organization is performing an essential governmental function. The revenue ruling states that the income of such an organization is excluded from gross income so long as private interests do not participate in the organization or benefit more than incidentally from the organization. The benefit to the employees of the insurance coverage obtained by the member political subdivisions was deemed incidental to the public benefit.

Trust was formed to provide self-insured insurance pools and group purchase of medical, dental and disability insurance for political subdivisions of State, IRC § 115 organizations, and organizations that are an integral part of the State. Providing these group benefits constitutes the performance of an essential government function within the meaning of IRC § 115(1). See Rev. Rul. 90-74 and Rev. Rul. 77-261.

No private interests will participate in, or benefit from, the operation of the Trust other than as providers of goods and services to its members.

In no event, including dissolution, will Trust's assets be distributed or revert to any entity that is not a state, a political subdivision of a state, or another entity the income of which is excluded from its gross income by application of IRC § 115.

Based solely on the facts and representations submitted by Trust, we conclude that:

1. Because the income of Trust derives from the exercise of an essential governmental function and will accrue to a state or a political subdivision thereof, Trust's income is excludable from gross income under IRC §115(1).

Except as expressly provided herein, no opinion is expressed or implied concerning the tax consequences of any aspect of any transaction or item discussed or referenced in this letter.

This ruling is directed only to the taxpayer requesting it. IRC § 6110(k)(3) provides that it may not be used or cited as precedent.

In accordance with the Power of Attorney on file with this office, a copy of this letter is being sent to your authorized representative.

The rulings contained in this letter are based upon information and representations submitted by the taxpayer and accompanied by a penalty of perjury statement executed by an appropriate party. While this office has not verified any of the material submitted in support of the request for rulings, it is subject to verification on examination.

Sincerely,

/S/

Casey Lothamer  
Branch Chief  
Exempt Organizations Branch 2  
(Tax Exempt & Government Entities)